

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHAWN D. SANDERS,

Defendant-Appellant.

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UNPUBLISHED

February 26, 1999

No. 208422

Recorder's Court

LC No. 96-007595

Before: Murphy, P.J., and MacKenzie and Talbot, JJ.

MEMORANDUM.

Defendant appeals by leave granted his plea-based convictions of carjacking, MCL 750.529a; MSA 28.797(a), armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant approached a man at a gas station, displayed a gun, ordered the man out of his car, and drove away in the car. Defendant received concurrent terms of three to twenty years in prison for the convictions of carjacking and armed robbery. Those sentences were to be consecutive to the mandatory two-year term for felony-firearm.

Defendant argues that his convictions for armed robbery and carjacking violate the constitutional prohibitions against double jeopardy. The statutes prohibit violation of the same social norm, i.e., the taking of property from a person by use of a weapon. *People v Robideau*, 419 Mich 458, 485-488; 355 NW2d 592 (1984).

We disagree. The United States and the Michigan Constitutions protect a person from being twice placed in jeopardy for the same offense. US Const, Am V; Const 1963, art 1, § 15. Examination of the scope of double jeopardy protection is confined to a determination of legislative content. *Robideau*, *supra*, at 485. Under the Michigan Constitution, determination of legislative intent involves traditional considerations of the subject, language, and history of the statutes. *People v Denio*, 454 Mich 691, 708; 564 NW2d 13 (1997). The Legislature intended and authorized separate punishments for armed robbery and carjacking. MCL 750.529a(2); MSA 28.797(a)(2). While both

crimes involve property loss, they do not constitute the same offense and were designed to prevent different types of harm. *People v Parker*, 230 Mich App 337, 343-345; 584 NW2d 336 (1998).

Defendant's argument that his three-year minimum terms were disproportionate is without merit. A sentence must be "proportionate to the seriousness of the circumstances surrounding the offense and the offender." *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). Defendant's minimum terms were within the guidelines, and thus are presumed to be proportionate. *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 737 (1997). The factors cited by defendant, i.e., his age, his lack of a prior record, and lack of injury to the victim, do not overcome the presumption that the sentences are proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994).

Affirmed.

/s/ William B. Murphy

/s/ Barbara B. MacKenzie

/s/ Michael J. Talbot